

REMARKS:

Claims 1-3 are in the case and presented for consideration.

Claims 1 and 3 have been amended.

REJECTION OF CLAIMS UNDER 35 U.S.C. §112, SECOND PARAGRAPH

In accordance with Examiner's comments, claim 1 has been amended to clearly point out that the compatibilization system is mixed with the plastic recyclate waste.

Furthermore, the procedure according to the invention is based on the compatibilizer composition and processing of the mixture of plastic waste with added compatibilizer in the melt. Ethylene-propylene copolymer and styrene-butadiene block copolymer are components of the compatibilizer. This compatibilizer is added into commingled plastic waste before the melt processing. Both the copolymers used as compatibilizer components are special compounds which are not a component of plastic waste. The composition of the waste is shown in Example 1.

Thus, the claims are now believed to be both in proper for as well as consistent with the requirements of 35 U.S.C. 112, second paragraph.

REJECTION OF CLAIMS UNDER 35 U.S.C. §102(b)

Claims 1-3 were rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent 4212789 to Anspen ("Anspen").

Applicants respectfully traverse the Office's rejections that the claims of the present application are anticipated by the cited prior art.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See, e.g., *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). This standard is not satisfied where the prior art reference merely discloses the "concept", "essence", "key" or "gist" of the patented invention "concepts do not anticipate." *Panduit Corp. v. Dennison Mfg. Co.*, 774 F.2d 1082, 1101 (Fed. Cir. 1985). Additionally, to constitute anticipation, all the claimed elements must be found in exactly the same situation and united in the same way to perform the identical function in a single unit of prior art. *General Elect. Co. v. Nintendo Co., Ltd.*, 179 F.3d 1350 (Fed. Cir. 1999). Furthermore, it is a settled matter of law that dependent claims contain all the elements of the claims from which they depend.

Anspen fails to disclose or suggest critical elements claimed in currently amended independent claim 1, from which claims 2 and 3 depend.

The present invention claims the compatibilization of polymers. By contrast, Anspen lists the substituted phenylene diamines for polymerization process connected with production of impact polystyrene. Thus, Anspen describes polymerization of monomers and not polymers. Also, in Anspen the diamines serve as free radical terminators and nothing at all is even mentioned about any compatibilization effect. The process disclosed in Anspen is completely different from that which is claimed in the present application.

Anspen also fails to disclose or suggest recyclates being comprised of at least 30 wt. % of polyolefins.

Therefore, because Anspson fails to disclose or suggest critical elements of currently amended independent claim 1, from which claims 2 and 3 depend, it does not anticipate any of claims 1-3.

REJECTION OF CLAIMS UNDER 35 U.S.C. §103(a)

Claims 1-3 were rejected under 35 U.S.C. 103(a) as being unpatentable over Anspson.

The rejection is duly noted but Applicants respectfully traverse this rejection.

As mentioned above, Anspson fails to disclose or suggest critical elements of currently amended independent claim 1, from which claims 2 and 3 depend. Furthermore, Anspson also fails to provide a teaching or suggestion which would be sufficient to motivate one of ordinary skill in the art to come up with and combine the otherwise missing elements and hence arrive at the presently claimed invention.

Therefore, because Anspson fails to disclose critical elements claimed in currently amended independent claim 1, from which claims 2 and 3 depend, and because it does not provide a teaching which would motivate one of ordinary skill in the art to arrive at the present invention, none of claims 1-3 are obvious in light of Anspson.

Accordingly, the application and claims are believed to be in condition for allowance, and favorable action is respectfully requested.

No new matter has been added.

If any issues remain, the Examiner is respectfully invited to contact the undersigned at the number below, to advance the application to allowance.

Respectfully submitted,
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Dated: July 8, 2009

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